

Approved 4/27/06

February 23, 2006

The following action minutes are listed as they were acted upon by the Planning Commission and as listed on the agenda for the Regular Meeting of February 23, 2006, together with the maps and staff reports attached thereto and incorporated therein by reference.

**PRESENT:** Commissioners Bob Roos, Bruce Gibson, Penny Rappa, Sarah Christie and Chairperson Mehlschau

**ABSENT:** None

**PLEDGE OF ALLEGIANCE TO THE FLAG IS LED BY CHAIRPERSON MEHLSCHAU.**

### **PUBLIC COMMENT**

No one coming forward

### **PLANNING STAFF UPDATES**

**Warren Hoag, staff:** Gives updated status report for study sessions, which will be on the next Planning Commission agenda.

### **CONSENT AGENDA**

None

### **HEARINGS**

1. This being the time set for hearing to consider a request by **WOODY WOODRUFF** for a Vesting Tentative Tract Map and Conditional Use Permit to subdivide an existing 24,975 square foot parcel into 7 residential parcels ranging from 1,505 square feet to 2,396 square feet each and 1 open space parcel at 14,996 square feet for the purpose of sale and/or development. The project will result in the disturbance of the entire 24,975 square foot parcel. The division will require extending 9<sup>th</sup> Street and James Street through the property. The proposed project is within the Commercial Retail land use category and is located on James Way, 200 feet south of 8<sup>th</sup> Street, in the community of Templeton, in the Salinas River planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator finds that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted. **County File No: SUB2005-00010 / TRACT 2743.** Assessor Parcel Number: 041-202-009. Supervisorial District 1. Date Accepted: August 12, 2005.

**Josh Lebombard, staff:** Presents staff report.

**Commissioner Roos:** Requests aerial map be displayed so that he can determine where the streets will go.

**Richard Marshall, Public Works:** Directs Planning Commissioners to Page 1-14 in reference to Access and Improvements

**Commissioner Gibson:** Requests reasoning as to why there is no requirement for specific public road improvement standards.

**Richard Marshall, Public Works:** States this road functions as private road / driveway and will be privately maintained.

**Commissioners:** Discuss pedestrian road access.

**Commissioner Christie:** Discusses TAG (Templeton Advisory Counsel), design density of project, and compliance with housing element, and zoning.

**Josh Lebombard, staff:** Discusses zoning as being commercial retail.

**Kami Griffin, staff:** Discusses housing element clarification.

**Richard Marshall, Public Works:** Discusses language for pedestrian requirement condition.

**Jim Orton, County Counsel:** Suggests the establishment of a Homeowners Association Condition to the CC&R's.

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Christie, and on the following roll call vote:**

**AYES:** Commissioners Roos, Gibson, Rappa, Christie, and Chairman Mehlschau  
**NOES:** None  
**ABSENT:** None

**the Planning Commission adopts the Negative Declaration in accordance with CEQA guidelines, and approves Vesting Tentative Tract Map 2743, to WOODY WOODRUFF, and RESOLUTION NUMBERS 2006-009, -010, for the above referenced project, based on the Findings in Exhibit A, and subject to the Conditions in Exhibit B with the following sentence additions to the end of Tract Conditions 2. a. "including a sidewalk as shown on the site plan." and Tract Condition 2. b.: James Street constructed to a TCSD Fire Department approved section from the property to 8<sup>th</sup> street including a pedestrian walkway that complies with ADA requirements section from the property to 8<sup>th</sup> street. Condition 16. d. added to read: d. Establishment of a home owners association. New Condition 19. added as follows: Unless exempted by Chapter 21.09 of the county Real Property Division Ordinance or California Government Code section 66477, prior to filing of the final parcel or tract map, the applicant shall pay the in-lieu" fee that will be used for community park and recreational purposes as required by Chapter 21.09. The fee shall be based on the total number of new parcels or remainder parcels shown on the map that do not already have legal residential units on them", adopted.**

2. This being the time set for hearing to consider a request by **JAVAD SANI** for a Vesting Tentative Tract Map (Tract 2706) and Conditional Use Permit to allow a phased development consisting of three commercial units totaling approximately 24,000 square feet and 10 residential units totaling approximately 21,500 square feet on a 3.3 acre property composed of 5 underlying parcels. The request is also to subdivide a 40,606 square foot parcel (one of the existing five parcels) into 10 parcels ranging in size from 3,016 to 5,116 square feet for the purpose of sale and/or development. Phase I will consist of the construction of one approximately 8,000 square foot commercial building and three 2,150 square foot residences. Phase II will consist of the construction of one approximately 8,000 square foot commercial building and four 2,150 square foot residences. Phase III will consist of the construction of one approximately 8,000 square foot commercial building and three 2,150 square foot residences. The division will create two on-site roads. Road names have not yet been proposed. The proposed project will result in the disturbance of the entire 3.3-acre property. The proposed project is within the Office and Professional land use category and is located at 1315 Las Tablas Road in the community of Templeton, in the Salinas River planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator finds that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted. **County File No: SUB2004-00217.** Assessor Parcel Number:040-289-016. Supervisorial District 1. Date Accepted: January 4, 2006.

**Commissioners:** Discuss Quimby fees and Public/Facilities fees.

**Richard Marshall, Public Works:** Reads Quimby Fee ordinance

**Bob Peters:** Property owner next to Sani's development. Discusses meeting regarding type of development. Requested a wall be built which was approved but a wooden fence is shown on the current plans and is requesting a masonry wall.

**Josh LeBombard, staff:** States they can change to a masonry wall

**Commissioner Gibson:** States he will have a number of questions when this project comes back in the future.

**Commissioner Christie:** Discusses inconsistency with requirements.

**Commissioner Roos:** Discloses he had a discussion with the applicant's agent and discusses pursuing a general plan amendment.

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Gibson, and on the following roll call vote:**

**AYES:** Commissioners Roos, Gibson, Rappa, Christie, and Chairman Mehlschau

**NOES:** None

**ABSENT:** None

**to continue this item off calendar.**

3 This being the time set for a continued hearing to consider a request by **DOMINGOS R. GARCIA JR./SPRINT PCS** for a Development Plan/Coastal Development Permit to allow the construction and operation of an unmanned wireless telecommunications facility consisting of two panel antennas inside a 35-foot high, 12-inch diameter pole, and associated equipment located at base of pole. The project will result in the disturbance of approximately 1,250 sq ft of a 0.89-acre parcel. The proposed project is within the Residential Suburban land use category and is located between Highway 1 and Adobe Road (at 2682 Adobe Road), approximately 150 feet west of San Luisito Creek Road. The site is in the Estero planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 14, 2005 for this project. Mitigation measures are proposed to address visual resources, air quality, biological resources, geology, and hazards are included as conditions of approval. **County File No: DRC2004-00108.** Assessor Parcel Number: 073-181-027. Supervisorial District: 2. Date Accepted: May 4, 2005

**Lauren Lajoie, contract planning staff:** Requests continuation of this item to allow for additional time to address issues brought forth by concerned neighbors.

**Commissioner Roos:** Discusses findings, and item D's RF report's figures.

**Thereafter on motion by Commissioner Gibson, seconded by Commissioner Christie, and unanimously carried, to continue this item to the April 27, 2006 Planning Commission.**

4. This being the time set for hearing to consider a request by **JOHN COMINO/NEXTEL COMMUNICATIONS** for a Conditional Use Permit to allow the construction and operation of a wireless telecommunications facility. The facility would consist of eight panel antennae located on ten-foot poles in two sectors, a 273 square-foot underground equipment shelter, and utility installation. The vault would be located so as to allow future construction of at least three additional carriers. Grading activities would result in disturbance of approximately 300 square feet and 125 cubic yards of a 130-acre parcel. The proposed project is within the Agriculture land use category and is located at 9505 Highway 46, west of the community of Whitley Gardens. The site is in the El Pomar/Estrella planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on December 28, 2005 for this project. Mitigation measures are proposed to address visual resources, agricultural resources, air quality, biological resources, geology, and hazards are included as conditions of approval. **County File No: DRC2004-00149.** Assessor Parcel Number: 015-041-074. Supervisorial District: 1. Date Accepted: July 7, 2005

**Commissioner Roos:** Discusses Item D on Page 2-6. Discloses that he attended the meeting dated May 26<sup>th</sup> which is referred to on Page 4-2. Discusses antenna locations.

**Lauren Lajoie:** Presents staff report.

**Commissioner Gibson:** Requests clarification regarding whether there are any homes near site with staff responding. Discusses county requirement of master planning of other cell sites, and relationship to CEQA regarding other similar projects.

**Lauren Lajoie** Shows slide of bunkered equipment areas. Discusses accommodation of equipment shelter and the amount of equipment on the pole.

**Commissioner Christie:** Requests clarification on alternatives to the barn covering the cell site with Ms. Lajoie responding.

**Commissioners and Lauren Lajoie:** Discuss the various cell carriers that have previously been on the site.

**Commissioner Gibson:** Discusses pole location of antennas,

**Commissioner Christie:** Discusses agricultural easements over cell site.

**Mike Wulkan, staff:** Discusses finding a nexus between the impacts of the cellular facility and any requirement for an agricultural easement.

**Jim Orton, County Counsel:** States another approach would be to not allow any residential facility to be constructed within a radius of so many feet.

**Mario Muso:** representing Nextel, gives Commissioner Christie photos she requested from his file. Discusses Nextel's attempts to cover up the site equipment, stating the solution was vaulting the equipment. Addresses Commissioner Gibson's concerns regarding having a master plan. States there will be no agricultural disturbances from this project.

**Commissioner Christie:** Discusses other carriers and competitors, and requests how much a lease compensation with the property owner costs, with Mr. Muso stating he feels this is confidential, however it is under 20,000 per year. Also discusses visual analysis solutions.

**Mario Muso, Nextel,** Discusses Nextel's cooperation with public safety, providing cell phones to them and responsibilities of mitigations.

**Commissioner Roos:** Discusses RF report on Page 4-60, visual analysis, and antennas on the barn vs. antennas on the pole. Requests clarification differences regarding public exposure vs. occupational exposure.

**John Caoino, property owner:** States his wishes for the cell site to be approved. States agricultural viability as being barley and other grain crops. Economic interests discussed.

**Marshall Wilkenson:** Discusses approval process, and addresses Commissioner Christie's concerns regarding other carriers. States his approval of project. Discusses underground vaulting.

**Blanche Camino, property owner:** States their land is within the Williamson Act. Discusses carrier service areas.

**Commissioner Roos:** Discusses co-locations with staff responding, and approval of additional carriers.

**Commissioner Rappa:** Discusses identifying additional vault sites with staff responding with clarification of a bunker vault, and a master plan approach to bunkering.

**Commissioner Gibson:** States his interest in master planning and discusses how many carriers could be supported on this site and would like to have Condition 46 enhanced to include other carriers.

**Commissioner Roos:** Discusses future underground vaults mapped out on Page 4-15.

**Commissioner Christie:** Requests clarification on where the "sweet spot" is on site where facilities cannot be seen from the road with staff responding. Screening for antennas discussed.

**Lauren Lajoie:** Details other sites and equipment shelters and displays a picture of the "sweet spot".

**Commissioner Gibson:** Requests clarification on where staff is suggesting site should be, and master planning standards for placing antennas.

**Commissioner Christie:** Discusses inclusion of a condition speaking to agricultural easements being recorded over property.

**Commissioner Roos:** States he cannot support Commissioner Christie's suggestion as communication techniques could change in the future.

**Jim Orton, County Counsel:** Discusses land use ordinances, and conditional use permits for antennas.

**Commissioners and County Counsel:** Discuss location of bunker as being located in the proposed vault area, and applicant's submittal of a revised sight plan.

**Mario Muso, Nextel:** Discusses carriers, site locations of the vault and bunker, and requests having a vault vs. a bunker, which is a multi carrier vault.

**Commissioner Gibson:** Suggests conditions project on reserving enough space for 3 more vaults.

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Rappa, and on the following roll call vote:**

**AYES:** Commissioners Roos, Rappa, Gibson, Christie, and Chairman Mehlschau

**NOES:** None

**ABSENT:** None

**the Planning Commission adopts the Negative Declaration in accordance with CEQA guidelines, and grant a Conditional Use Permit to JOHN COMINO/NEXTEL COMMUNICATIONS, and RESOLUTION 2006-011, for the above referenced project, based on the Findings in Exhibit A with an addition to Findings C. to read:** As conditioned, the proposed project or **use satisfies** all applicable provisions of Title 22 of the County Code, **and with findings C. to read:** The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the unmanned wireless communication facility does not generate activity that presents a potential threat to the surrounding property and buildings and the Radio Frequency report prepared for this site concluded the maximum cumulative RF level that will be generated is 15% to 50% of the applicable public limit, **outside of the fencing, and will be 150% of the public limit inside the fencing, however the project has been conditioned to prohibit public access to the areas inside the fencing.** This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns. **and subject to the Conditions in Exhibit B with the following changes: Condition 4 sentence addition:** The applicant shall provide verification by the RF engineer that the fencing plan is in compliance with the RF report dated December 23, 2004., **and Condition 34 to read: Prior to final inspection,** explanatory warning signs\* to prevent **public and** occupational exposures in excess of the FCC guidelines are to be posted at the site entrance gate and on or at the barrier fence and antennas such that they would be readily visible from any angle of approach **to the public and** to persons who might need to work near the antennas. (\*Warning signs should comply with ANSI C95.2 color, symbol, and content conventions. In addition, contact information should be provided (e.g., a telephone number) to arrange for access to restricted areas, **adopted.**

5. This being the time set for hearing to consider a proposal by **MIDLAND PACIFIC BUILDING CORPORATION** for the tentative tract map (Tract 2633) to subdivide one 24.43-acre parcel into 44 lots between 10,000 to 15,000 square feet in size and four open space parcels 0.2, 1.9, 2.9, and 4.8 acres in size. Proposed tract improvements include access roads, two detention basins, detached pedestrian walkways, a neighborhood park, and landscaping. The project site is located on the west side of Cemetery Road, approximately 1,500 feet south of 10th Street, in the community of San Miguel, in the Salinas River Planning Area. The Environmental Coordinator finds that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA because no substantial changes are proposed in the project which will require major revision of the previous Negative Declaration, no substantial changes occur with respect to the circumstance under which the project is undertaken which will require major revision of the previous Negative Declaration, and no new information of substantial importance has been identified which was not known at the time that the previous Negative Declaration was adopted on July 5, 2005 for this project. Mitigation measures are proposed to address aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, noise, public services, recreation, transportation/circulation, wastewater, water and are included as conditions of approval. **County File No: SUB2003-00271.** Assessor Parcel Number 021-371-001. Supervisorial District 1. Date Accepted: July 14, 2004.

**James Lopes, staff:** Presents staff report and notes revisions to conditions.

**Commissioner Roos:** Discusses Condition 2b Cemetery Road widening.

**Richard Marshall, Public Works:** Discusses specifications in A1 and pedestrian pathways.

**Commissioner Christie:** Discusses Urban reserve line extension, LAFCO communications, kit fox mitigations, and loss of acreage of kit fox habitat.

**Commissioner Gibson:** Discusses loss of agricultural land letter of 4/8/04 and class 2 soils designation.

**Eric Justephson, representing applicant:** Discusses condition revisions and is agreeable to them. Requests clarification from Public Works on Condition 5 regarding intersection of streets.

**Dennis Degher, San Miguel resident:** Member of San Miguel Advisory Counsel speaking as a private citizen. Discusses concerns with growth in San Miguel, traffic impacts and proposes a moratorium on projects until a feasibility study can be done.

**Commissioner Christie:** Discusses advisory counsel, general plan, and if they had an opportunity to review and comment on this project with Commissioner Roos stating this was discussed at a meeting sometime last year.

**Commissioner Roos:** Discusses petition numbers, and differences of addresses from San Miguel.

**Jim Orton, County Counsel:** Discusses determining what activities are going to be taken on these lots as he is determining what the restrictions should be.

**Eric Justephson:** Clarifies lot activities for county counsel.

**Richard Marshall, Public Works:** Explains his traffic analysis sketch shown on overhead. Discusses levels of impact, intersection of River Road, recommended improvement to Cemetery Road on-ramp creation location,

**Commissioner Roos:** Requests if San Miguel has a traffic fee area with Public Works responding that it does not.

**Commissioner Gibson:** Requests why there is no fee requirements with Public works clarifying.

**Commissioners:** Discuss various road improvements, funding for improvements, and traffic impact analysis studies.

**Jim Orton, County Counsel and Commissioners:** Discusses Nipomo area traffic impact studies vs. no traffic study for this project and option of requirement of an E.I.R., cumulative impacts discussed, freeway access, and condition addition for requirement of traffic impact fees discussed.

**James Lopes, staff:** Discusses Cal Trans opinion on Cemetery Road traffic impacts.

**Kami Griffin, staff:** Discusses San Miguel General Plan amendment.



**Richard Marshall, Public Works:** Clarifies his sketch of road on overhead.

**Commissioner Christie:** Requests clarification on Page 5-60 regarding current buildout of San Miguel and sewage treatment plant capacity.

**Commissioner Christie:** States she cannot support project because we are unable to make findings under CEQA, we have inadequately mitigated for the kit fox, traffic has not been thoroughly studied, loss of agricultural land and burdening San Miguel's sewage treatment plant without analysis.

**Commissioner Gibson:** States he cannot support the motion due to conversion of agricultural land, cannot make finding to mitigated Negative Declaration as it does not adequately analyze cumulative impacts of traffic, and states protecting existing agriculture needs to be addressed.

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Rappa, and on the following roll call vote:**

**AYES:** Commissioners Roos, Rappa and Chairman Mehlschau

**NOES:** Commissioners Christie and Gibson

**ABSENT:** None

**The Planning Commission adopts the Negative Declaration in accordance with CEQA guidelines, and grant a Vesting Tentative Tract Map 2633 to MIDLAND PACIFIC BUILDING CORPORATION, and RESOLUTION NUMBER 2006-012, for the above referenced project based on the Findings in Exhibit A, and subject to the Conditions in Exhibit B, adding the word "residential" to Condition 20, adopted.**

6. This being the time set for hearing to consider a request by **DAVID AND BETH NAGENGAST** for a Conditional Use Permit to allow the construction of a 1,200 square foot winery. No special events or public tasting are proposed. The project will result in the disturbance of approximately 2,850 square feet of a 10 acre parcel. The proposed project is within the Residential Rural land use category and is located at 6271 Hog Canyon Road approximately 6 miles east from the community of San Miguel. The site is in the Salinas River planning area. Also to be considered at the hearing will be approval of the Environmental Document prepared for the item. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on December 20, 2006 for this project. **County File No: DRC2004-00243.** Assessor Parcel Number: 019- 321-019. Supervisorial District: 1. Date Accepted: 10-26-05.

**Nick Forester**, staff, presents staff report. States there are two revisions to the conditions and clarifies them.

**Commissioner Roos:** Requests clarification on Condition 7 regarding addition of item d, as to referrals. Discusses CDF's letter on Page 6-40 regarding a requirement of having a pave road for access.

**Kami Griffin, staff:** Addresses Commissioner Roos' request and states there are referrals.

**Richard Marshall, Public Works:** States his understanding regarding the paved road.

**Commissioner Christie:** Discusses Condition 4 and would like the word 'authorize' replaced with 'prohibit'. Discusses consideration of a LLA instead of shortening the setback distance.

**Nick Forester, staff:** States the applicants were not interested in merging the lots.

**Jim Orton, County Counsel:** Discusses a covenant and agreement report as an option to the applicants.

**Commissioner Rappa:** States a LLA sounds appropriate if ever required.

**Jim Orton, Co. Counsel:** Discusses a covenant which doesn't need a waiver.

**David Nagengast, applicant:** States the infrastructure of the vineyard is contiguous. States trying to sell one piece of the property would be impractical. Would like this approved. States he would not know where to put the LLA. Addresses sloping on the road, which will be smoothed out by grading.

**Commissioner Roos:** Clarifies with the applicant his understanding that the road must be paved.

**Commissioner Roos:** Would like the recording of a covenant discussed.

**Jim Orton, County Counsel:** Discusses a covenant agreement and explains that lots must be combined and conveyed together.

**Richard Marshall, Public Works:** Give condition language suggestion.

**Beth Nagengast, applicant:** Requests clarification regarding what fees are involved with the covenant agreement and timing to which they agree to.

**Commissioners and County Counsel:** Discuss condition language

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Rappa, and on the following roll call vote:**

**AYES:** Commissioners Roos, Rappa, and Chairman Mehlschau

**NOES:** Commissioners Christie and Gibson

**ABSENT:** None

**the Planning Commission adopts the Negative Declaration in accordance with CEQA guidelines, and grants a Conditional Use Permit DRC2004-00243 to DAVID AND BETH NAGENGAST, and RESOLUTION NUMBER 2006-013, for the above referenced project based on the Findings in Exhibit A, and subject to the Conditions in Exhibit B, adding D. to Condition 7 to include; d.Independence Ranch CSD, adopted.**

7. This being the time set for hearing to consider a request by **COMMUNITY UNITED PRESBYTERIAN CHURCH** for a Third Time Extension of Conditional Use Permit (Development Plan) to allow construction of four structures totaling 21,135 square feet in addition to the existing 6,000 square foot sanctuary and classrooms. The four new structures will serve as classrooms, an administration building, and a new sanctuary. The project is located at 1235 N Thompson Road, north of the community of Nipomo, in the Residential Rural land use category. The site is in the South County (Inland) planning area. **County File No: D990359D.** Assessor  
Parcel Number: 091-090-043. Supervisorial District 4. Date Accepted: May 31, 2000.

**Chairman Mehlschau:** States he has a conflict with this item, as he is a member of this church and therefore will be stepping down from this item.

**(CHAIRMAN MEHLSCHAU IS ABSENT)**

**Commissioner Rappa:** Takes the gavel.

**Brian Pedrotti, staff:** Presents staff report.

**Commissioner Roos:** Discusses finding A to be changed to May 11, 2005.

**Kurt Ellingworth, architect:** States there will not be 20,000 square feet built, states they are adding 4700 square feet to the existing square footage.

**Thereafter on motion by Commissioner Roos, seconded by Commissioner Gibson, and on the following roll call vote:**

**AYES:** Commissioners Roos, Gibson, Rappa, and Christie

**NOES:** None

**ABSENT:** Chairman Mehlschau

**the commission approves a third time extension to be valid until April 26, 2006, for Development Plan D990359D, based on the Findings in Exhibit A, and subject to the Conditions in Exhibit B.**

**(CHAIRMAN MEHLSCHAU IS PRESENT)**

8. This being the time set for hearing to consider a request by **ERIC FORBES** to appeal the Planning Director's decision, that a partially-constructed, unpermitted secondary residence is within the required canyon rim setback of 20 feet, as specified in Section 22.112.030.C.1.c (Black Lake Canyon Sensitive Resource Area standards. The proposed project is located at 2138 Callender Road, approximately 800 feet east of Sheridan Road, within the Callender-Garrett village on the Nipomo Mesa. The site is in the South County planning area. **County File No: COD2005-00048.** Assessor Parcel Number: 091-173-009. Supervisorial District: 4. Date Accepted: N/A

**John McKenzie, staff:** Presents staff report.

**Commissioners:** Discuss waivers.

**Eric Forbes, appellant:** Discusses footprint of house, planning area standards, deck not being below the canyon rim. Shows pictures overhead. Discusses standards for rim of the canyon. Shows calculations he made regarding finding rim of canyon. Feels a 15% slope would be appropriate. Discusses cumulative impacts and canyon rim method locations. States conclusions from staff seem to be at odds with recommendations.

**Commissioner Roos:** Discusses illegal secondary dwelling.

**Commissioner Christie and staff:** Discuss setback calculation, and grading.

**Commissioner Roos:** Discusses removal of dirt.

**Commissioner Gibson:** Discusses east side picture of slope butting up against footing, requirement of permit to remove construction with mitigation for environmental impacts.

**Commissioners:** Discuss area standards

**Warren Hoag, staff:** Discuss A.G. creek setbacks as non-existent until recently.

**Thereafter on motion by Commissioner Gibson, seconded by Commissioner Roos, and on the following roll call vote:**

**AYES:** Commissioners Gibson, Roos, Rappa, Christie, and Chairman Mehlschau

**NOES:** None

**ABSENT:** None

**the appeal is denied based on Findings A through C in Exhibit A.**

**Thereafter on motion of Commissioner Gibson, seconded by Commissioner Roos, and unanimously carried, to take in all correspondence for the record.**

There being no further business to discuss the meeting is adjourned at 3:00 p.m.

Respectfully Submitted

Ramona Hedges, Secretary Pro Tem

Planning Commission